MAR 2019 MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CLISTOCAL

United States District Court	District		
Name (under which you were convicted):	,		Docket or Case No.:
Demarlyn Stewart	Fastern 1	Vistrict	4:17-CR-00340
Place of Confinement:		Prisoner No.:	
Federal Corrections Institute, Pol	locic	20268-	
UNITED STATES OF AMERICA	. N	Iovant (include name	e under which convicted)
V.	DEMAR	LLYN STE	ENART
	MOTION		
1. (a) Name and location of court which entered the	he judgment of co	onviction you are	challenging:
United States District Court	-	_	
Eastern Division	1		1
Experience of the second of th			
(b) Criminal docket or case number (if you kno	w): 4:17:00	2-00340-5	SNIT-NCC
2. (a) Date of the judgment of conviction (if you l	mow): N/A		
(b) Date of sentencing:	· -/		7
•			
3. Length of sentence: /20 mon+h	· · · · · · · · · · · · · · · · · · ·		
4. Nature of crime (all counts): 18 145 4	5. 924	(7)	
. Tradate of erante (an ecante).			
	<u>. :</u>		· · · · · · · · · · · · · · · · · · ·
5. (a) What was your plea? (Check one) (1) Not guilty □ (2) C	Guilty 🗹	(3) Nolo	contendere (no contest)
(b) If you entered a guilty plea to one count or what did you plead guilty to and what did you			o another count or
• • • • • • • • • • • • • • • • • • • •			
6. If you went to trial, what kind of trial did you h	ave? (Check one	e) Jury	☐ Judge only ☐

7.	Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes □	No 🖸
8.	Did you appeal from the judgment of conviction? Yes □ No ☑	
9.	If you did appeal, answer the following:	
	(a) Name of court:	
	(b) Docket or case number (if you know):	
	(c) Result:	· · · · · · · · · · · · · · · · · · ·
-	(d) Date of result (if you know):	
	(e) Citation to the case (if you know):	
	(f) Grounds raised:	
	·	
,		
		, , , , , , , , ,
		ų
	(g) Did you file a petition for certiorari in the United States Supreme Court? Yes	
	If "Yes," answer the following:	
	(1) Docket or case number (if you know):	
	(2) Result:	
	(3) Date of result (if you know):	
	(4) Citation to the case (if you know):	
	(5) Grounds raised:	· ·
	(5) Greatas tabean	
•		
		
magate is the south of the south of		an reacularizing annique reachine seasine share "New puriouses" of citizen an efficiency informative decisionaries accounts accounts.
	- '	
10.	Other than the direct appeals listed above, have you previously filed any other motions, p	etitions, or applications,
2	concerning this judgment of conviction in any court? Yes No V	
	Yes No	
11.	If your answer to Question 10 was "Yes," give the following information:	
	(a) (1) Name of court:	
	(2) Docket or case number (if you know):	
	(3) Date of filing (if you know):	

	(4)	Nature of the proceeding:
	(5)	Grounds raised:
	(6)	Did you receive a hearing where evidence was given on your motion, petition, or application?
		Yes □ No 🗹
	(7)	Result:
	(8)	Date of result (if you know):
(b)	If yo	ou filed any second motion, petition, or application, give the same information:
	(1)	Name of court:
	(2)	Docket of case number (if you know):
	(3)	Date of filing (if you know):
	(4)	Nature of the proceeding:
	(5)	Grounds raised:
	•	
	,	
		
	(6)	Did you receive a hearing where evidence was given on your motion, petition, or application?
	-	Yes □ No 🗹
	(7)	Result:
and the sage	(8)	Date of result (if you know):
(c)	Did	you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition,
or a	applio	cation?
	(1)	First petition: Yes □ No □
-	(2)	Second petition: Yes □ No □
(d)	If yo	ou did not appeal from the action on any motion, petition, or application, explain briefly why you did not:
	_	

Page 5

GRC	ound one: Ineffective Assistance of Counsel
	(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
	Counsel was ineffective for indusing Mr. Stewart
	to plead quilty by advising Mr. Stewart Hat it
	proceed to trial he would face an "all white jury."
	See Memo la Support.
	(b) Direct Appeal of Ground One:
	(1) If you appealed from the judgment of conviction, did you raise this issue?
	Yes □ No 🗹
	(2) If you did not raise this issue in your direct appeal, explain why: Want of Acoes
	Ineffective Claims are brought in a collateral
	protection
	(c) Post-Conviction Proceedings:
	(1) Did you raise this issue in any post-conviction motion, petition, or application?
	Yes □ No □
	(2) If you answer to Question (c)(1) is "Yes," state:
	Type of motion or petition:
• •	Type of motion or petition: Name and location of the court where the motion or petition was filed:
• •	Type of motion or petition: Name and location of the court where the motion or petition was filed: Docket or case number (if you know):
	Type of motion or petition: Name and location of the court where the motion or petition was filed: Docket or case number (if you know): Date of the court's decision:
	Type of motion or petition: Name and location of the court where the motion or petition was filed: Docket or case number (if you know):

(4)	V □	Nt _a \square							
(5)	Yes □	No □		:_ "37 " 」	: 4	4h a		maa10	
(5)	If your answe		on (c)(4)	is res, d	id you raise	me issue	п ше ар	pear	
(6)	Yes □	No □	()(4)	'- ((3	4-4		. •		
	If your answe		*						`
Name	and location	of the cour	t where	the appeal	was filed: _				· · · · · · · · · · · · · · · · · · ·
Dock	et or case num	nber (if you	know):						
Date	of the court's	decision:							
Resul	t (attach a co	py of the co	ourt's op	inion or ord	ler, if availa	ble):			
)				>	,			
(7)	If your answe	r to Questic	on (c)(4)	or Question	n (c)(5) is "?	No," exp	ain why y	ou did n	ot appeal o
issue	-								
						_			
									········
	7 "								•
	1 00								
D TWO	o: Inef	ectiv	L As	ss is ta	nu				
· 	D: Ineff				•	cific facts	s that supp	oort your	claim.):
) Supp	orting facts (I	Oo not argu	e or cite	law. Just s	tate the spec				
) Supp	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's
Support	orting facts (I	Oo not argu	e or cite	law. Just s	tate the spec	the	gove		cnt's
Support	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's
Support	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's
Support	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's
Support	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's
Support	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's
Support	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's
Support	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's
Support	orting facts (I	o not argu Cailed	e or cite	law. Just s	tate the spec	the	gove	<i>eni</i>	cnt's

Post-Conviction Proceedings:	<u> </u>	
(1) Did you raise this issue in any post-convict	ion motion, netition, or application?	,
Yes □ No □	ion motion, polition, or approacion.	
(2) If you answer to Question (c)(1) is "Yes," s	state:	
Type of motion or petition:		
Name and location of the court where the motion	n or petition was filed:	
	·	.,
Docket or case number (if you know):		
Date of the court's decision:		
Result (attach a copy of the court's opinion or o	rder, if available):	
<u> </u>		
		4
(3) Did you receive a hearing on your motion,	petition, or application?	
Yes □ · No □		
(4) Did you appeal from the denial of your mo	tion, petition, or application?	
Yes □ No □		•
(5) If your answer to Question (c)(4) is "Yes,"	did you raise the issue in the appeal?	,
Yes □ No □	* *	,
(6) If your answer to Question (c)(4) is "Yes,"	1	
Name and location of the court where the appea	i was med:	t-
Docket or case number (if you know):	·	
Date of the court's decision:		
Result (attach a copy of the court's opinion or o	rder, if available):	uniter record. An extended the control of the second secon
(7) If your answer to Question (c)(4) or Questi	ion (c)(5) is "No," explain why you d	id not appeal
issue:		<u>.</u>
	:	
	•	

Case: 4:19-cv-00638-SNLJ Doc. #: 1 Filed: 03/25/19 Page: 7 of 12 PageID #: 7

ROUND THREE:	Withdrawal of Gwil	ty Plea	
(a) Supporting f	acts (Do not argue or cite law. Just state the		•
GOINEZ	ment failed at spec	ific performan	le to
MONE HO	court for a level r	eduction for M	r. Stewart
timely p	leading quilty. See i	Hemo in Support.	
		,	
		,	
(b) Direct Appe	al of Ground Three:		
	opealed from the judgment of conviction, d	id vou raise this issue?	
Yes		· · · · · · · · · · · · · · · · · · ·	-
	id not raise this issue in your direct appeal,	evnlain why	
_	• • • • • • • • • • • • • • • • • • • •	explain why.	
· · · · · · · · · · · · · · · · · · ·	ee Memo	<u> </u>	
(a) Don't Chami	Can Duran Maria	, , , , , , , , , , , , , , , , , , , ,	
	tion Proceedings:		·
•	raise this issue in any post-conviction moti	on, petition, or application?	
Yes			•
	nswer to Question (c)(1) is "Yes," state:		
Type of mot	on or petition:		
Name and lo	cation of the court where the motion or peti	tion was filed:	
 	· · · · · · · · · · · · · · · · · · ·		
Docket or ca	se number (if you know):		.*
Date of the o	ourt's decision:		
Result (attac	a copy of the court's opinion or order, if a	vailable):	m information of support a majority to a common state. The
			el
(3) Did you	receive a hearing on your motion, petition,	or application?	
Yes	• •	••	
	appeal from the denial of your motion, pet	ition, or application?	
Yės		mon, or approunou:	
	nswer to Question (c)(4) is "Yes," did you	raise the issue in the annex!	
(5) II your	•	raise the issue in the appear?	

Name and location of the court where the appeal was filed: Docket or case number (if you know): Date of the court's decision: Result (attach a copy of the court's opinion or order, if available): (7)	Name and largeting of the country and and the country	·	
Date of the court's decision: Result (attach a copy of the court's opinion or order, if available): (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or rai issue: UND FOUR: Evidentiary Hearing (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of court appeal by the gaikernment Mr. Stemant's quilty plea is inveluntary and an exidentiary hearing should be narranted and the second forms. (b) Direct Appeal of Ground Four: (c) Post-Conviction Proceedings:	Name and location of the court where the appe	al was filed:	
Date of the court's decision: Result (attach a copy of the court's opinion or order, if available): (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or rai issue: UND FOUR: Evidentiary Hearing (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of court appeal is invelled and luck of specific performance by the government Mr. Stemast's quilty plea is invelled and an exidentiary hearing should be noarranted and the second forms. (b) Direct Appeal of Ground Four: (c) Post-Conviction Proceedings:	Docket or case number (if you know):		
Result (attach a copy of the court's opinion or order, if available): (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or rai issue: UND FOUR: Evidentiary Hearing (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of court appeal by the galexyment My Stemast's quilty plea is involuntary and an evidentiary hearing should be normally and an evidentiary hearing should be normally on the Se Claims. (b) Direct Appeal of Ground Four: (c) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\text{No.} \) No \(\text{El} \) (c) Post-Conviction Proceedings:			
(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or rai issue: IND FOUR: Evidentiary Hearing		order, if available):	
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of lowest appeal by the government Mr. Stewart's quiltry plea is involuntary and an exidentiary hearing should be warranted and these claims. (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \Box\text{No \Box\text{P}} (2) If you did not raise this issue in your direct appeal, explain why:			
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of lowest appeal by the government Mr. Stewart's quiltry plea is involuntary and an exidentiary hearing should be warranted and these claims. (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \Box\text{No \Box\text{P}} (2) If you did not raise this issue in your direct appeal, explain why:	:		•
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Direct Appeal of Ground Four: (b) Direct Appeal of Ground Four: (c) Post-Conviction Proceedings:		tion (c)(5) is "No," explain why you did not appeal or	rai
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of courst appointed. Council and lack of specific performance by the government Mr. Stewart's quiltry plea is involuntary and an evidentiary bearing should be warranted. (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\text{No Elements argue} \) (2) If you did not raise this issue in your direct appeal, explain why:	issue:		
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of courst appointed. Council and lack of specific performance by the goilernment Mr. Stewart's quality plea is involuntary and an evidentiary bearing should be warranted. (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\text{No } \) (2) If you did not raise this issue in your direct appeal, explain why:			
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of courst appointed. Council and lack of specific performance by the goilernment Mr. Stewart's quality plea is involuntary and an evidentiary bearing should be warranted. (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\text{No } \) (2) If you did not raise this issue in your direct appeal, explain why:		· · · · · · · · · · · · · · · · · · ·	
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of courst appointed. Council and lack of specific performance by the government Mr. Stewart's quality plea is involuntary and an evidentiary bearing should be warranted. (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\text{No Extenses} \) (2) If you did not raise this issue in your direct appeal, explain why:			
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Due to ineffective assistance of courst appointed. Council and lack of specific performance by the government Mr. Stewart's quality plea is involuntary and an evidentiary bearing should be warranted on the Se Claims. (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\text{No } \) (2) If you did not raise this issue in your direct appeal, explain why:			
Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \square No \square (2) If you did not raise this issue in your direct appeal, explain why:	UND FOUR: Evidentiary Heari	ng	
Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \square No \square (2) If you did not raise this issue in your direct appeal, explain why:	(a) Supporting facts (Do not argue or cite law Jus	st state the specific facts that support your claim):	
(b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\sum \) No \(\sum \) (2) If you did not raise this issue in your direct appeal, explain why:		^ '	
(c) Post-Conviction Proceedings:			
(b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\sum \) No \(\sum \) (2) If you did not raise this issue in your direct appeal, explain why:			2 .
(b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\sum \) No \(\sum \) (2) If you did not raise this issue in your direct appeal, explain why:)
(b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\sum \) No \(\sum \) (2) If you did not raise this issue in your direct appeal, explain why:	,	ecciting - Should be lowitan	77
 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: 	BY THESE CHAINES.		
 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: 			
 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: 		-,-,	
 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: 			
 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: 			
 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: 			
Yes No (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings:			
(2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings:	(b) Direct Appeal of Ground Four:		
(c) Post-Conviction Proceedings:		viction, did you raise this issue?	
	(1) If you appealed from the judgment of con	viction, did you raise this issue?	
	(1) If you appealed from the judgment of con Yes □ No □		. ,
	(1) If you appealed from the judgment of con Yes □ No □		,
(1) Did you raise this issue in any post-conviction motion, petition, or application?	(1) If you appealed from the judgment of con Yes □ No □		,
	 (1) If you appealed from the judgment of con Yes □ No □ (2) If you did not raise this issue in your direction 		j

©AO 243 (Rev. 10/07) Page 10

Nan	e and location of the court where the motion or petition was filed:
Doc	ket or case number (if you know):
	of the court's decision:
Rest	alt (attach a copy of the court's opinion or order, if available):
(3)	Did you receive a hearing on your motion, petition, or application?
	Yes □ No □
(4)	Did you appeal from the denial of your motion, petition, or application?
	Yes \(\square\) No \(\square\)
(5)	If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?
	Yes □ No □
(6)	If your answer to Question (c)(4) is "Yes," state:
Nan	ne and location of the court where the appeal was filed:
Doc	ket or case number (if you know):
	of the court's decision:
	ult (attach a conv of the court's oninion or order, if available):
11001	
	· ·
(7)	If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or
issu	•
15541	
	and the state of t
here :	any ground in this motion that you have <u>not</u> previously presented in some federal court? If so,
	or grounds have not been presented, and state your reasons for not presenting them:
	'

©AO 243 (Rev. 10/07) Page 11

188	ues raised.
_	
	ve the name and address, if known, of each attorney who represented you in the following stages of the u are challenging:
(a)	At the preliminary hearing: N/N
(b)	At the arraignment and plea: William Marsh
(c)	At the trial: $\mu \hat{\mu}$
(-,	At the trial: u/μ
(d	At sentencing:
	Same
(e)	On appeal:
<u></u>	In any post-conviction proceeding: $Q_{\Sigma,n} \subseteq Q$
(1)	In any post-conviction proceeding:
(g)	On appeal from any ruling against you in a post-conviction proceeding:
W	ere you sentenced on more than one court of an indictment, or on more than one indictment, in the same cou
an	d at the same time? Yes □ No ☑
Do	you have any future sentence to serve after you complete the sentence for the judgment that you are
	allenging? Yes \(\subseteq \text{No } \subseteq \)
(a)	If so, give name and location of court that imposed the other sentence you will serve in the future:
(1.)	
(b)	Give the date the other sentence was imposed:

18

%AO 243 (Rev. 10/07) Page 12

	·
	
\	
· · · · · · · · · · · · · · · · · · ·	
· · · · · · · · · · · · · · · · · · ·	
· · · · · · · · · · · · · · · · · · ·	
, , , , , , , , , , , , , , , , , , ,	
· · · · · · · · · · · · · · · · · · ·	<u> </u>
	· · · · · · · · · · · · · · · · · · ·

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest-of------

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

^{*} The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

Case: 4:19-cv-00638-SNLJ Doc. #: 1 Filed: 03/25/19 Page: 12 of 12 PageID #: 12

Therefore, movant asks that the Court grant the following relief: With Ash of guilty planers or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on A 3-18-26/4 (month, date, year)

Executed (signed) on Mannaham Abundan Abundan (date)

Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.